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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/300,348	04/27/1999	DOUGLAS E. MEISNER	07844/334001	4364

21876 7590 10/17/2003

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EXAMINER

POKRZYWA, JOSEPH R

ART UNIT	PAPER NUMBER
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2622

DATE MAILED: 10/17/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/300,348

Applicant(s)

MEISNER ET AL.

Examiner

Joseph R. Pokrzywa

Art Unit

2622

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: The amendment raises new issues requiring further consideration.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Advisory Action***

1. The period for reply continues to run 3 MONTHS from the date of the final rejection. Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a) accompanied by the appropriate fee. The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. A reply within the meaning of 37 CFR 1.113 or a request for a continued examination (RCE) in compliance with 37 CFR 1.114 must be timely filed to avoid abandonment of this application.

### ***Response to Amendment***

2. The amendment filed 9/22/03 under 37 CFR 1.116 in reply to the final rejection has been considered but is not deemed to place the application in condition for allowance and will not be entered because:

- a. The proposed amendment raises new issues that would require further consideration and/or search.

Regarding *claims 1 and 27*, the addition of the limitation “substantially simultaneously” presenting a plurality of variations of the image, raises new issues, which change the scope of the claims, therein requiring further consideration and search.

Regarding *claims 33 and 39*, the addition of the limitation “receiving one or more compression settings for compressing the image and a number specifying how many variations of the image are to be generated; ... using the derived alternative compression settings to generate a plurality of variations of the image including as many variations as specified by the receiving number”, raises new issues, changing the scope of this claim, requiring further consideration and search.

### ***Response to Arguments***

3. In response to applicant’s arguments regarding the amendment not raising new issues, because limitations similar to the amendments have been previously presented, whereby the applicant’s point out on page 13 that claim 21 and claim 38 provide substantially simultaneously presenting a plurality of variations of the image. The examiner notes that claim 21, which is indirectly dependent on claim 1, recites “displaying the image at current user defined compression settings along with three variations in a four-up orientation on an output display”. Because this can be interpreted as an arbitrary four-up orientation on a display where the separate variations are displayed, albeit at separate times (and as taught in Fig. 3 of Sugiarto *et al.* as cited in the Office action dated 7/15/03), one of ordinary skill in the art can recognize that this is different than presenting the variations “substantially simultaneously”, with each of the variations being one frame in a four-up orientation, as shown in Fig. 3 of the current application. Further, claim 38, being dependent on claim 33, states “concurrently displaying two or more of the plurality of variations of the image”. Since this claim is dependent on claim 33, and not claim 1, it is viewed within the scope of the amendment to claim 33. The limitation of “receiving one

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or more compression settings for compressing the image and a number specifying how many variations of the image are to be generated; ... using the derived alternative compression settings to generate a plurality of variations of the image including as many variations as specified by the receiving number” is far different than concurrently displaying two or more of the plurality of variations of the image. Because of this, the examiner deems that the amendment raises new issues, requiring further consideration and search.

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe Pokrzywa whose telephone number is (703) 305-0146. The examiner can normally be reached on Monday-Friday, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Edward L. Coles can be reached on (703) 305-4712. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

J. R. P.

Joseph R. Pokrzywa  
Examiner  
Art Unit 2622

  
EDWARD COLES

SUPERVISORY PATENT EXAMINER  
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jrp